

Low-income housing tax credit changes in the 2008 Housing Act

Dear Reader,

Included in the \$15.1 billion package of housing tax incentives in the recently enacted "Housing Assistance Tax Act of 2008" (the Housing Act) are numerous provisions affecting the low-income housing tax credit. Specifically, the new legislation:

- Allows a temporary 20 cents per capita (about 10%) increase in the low-income housing tax credit volume limit for 2008 and 2009, and also increases the small state minimum annual cap by 10%.
- Permits low-income housing tax credits to offset the alternative minimum tax (AMT) (effective for low-income housing credits attributable to buildings placed in service after Dec. 31, 2007).
- Eliminates the housing credit recapture bond requirement on the disposition of a building and replaces it with an extended statute of limitations of three years after the taxpayer notifies IRS of noncompliance with the low-income housing credit rules.
- Temporarily sets the annual housing credit percentage at 9%. The 70% present value credit rate is commonly called the "9% credit," but because interest rates are low, its actual value has been about 7.8% annually. The new legislation sets a 9% floor on this rate for buildings placed in service after enactment and before Dec. 31, 2013, enough to increase credits for a development by about 15% (i.e., from 7.8% to 9%).
- Eases the general public use requirement, by providing that a low-income housing project won't fail that requirement because of occupancy restrictions or preferences that favor certain types of tenants.
- Includes numerous technical changes to the low-income housing tax credit.

I hope this information is helpful. If you would like more details about these provisions or any other aspect of the new law, please do not hesitate to call.